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THE NEW WOMAN IN JAPAN.

WE desire at the outset to disclaim any intention of using the term "new woman" in a jocose or satirical way. It is not our purpose to refer at all to such a creature as that called "new woman" in the Occident; for it has not yet appeared to any great extent among the Japanese. It may be true, in some cases, that the modernized Japanese woman is "without gentleness or refinement," and may be called a "parody of a man" or a "sickening sort of person." But, as the *Jiji Shimpō* explains, "the process of the new woman's evolution may be disfigured by some accident;" and "the new woman stands out with objectionable salience because her environment is so colorless."

Nor do we intend to treat even of the true and noble new woman, of whom Miss Ume Tsuda may conveniently be taken as a type, and who, having experienced the higher and better life, is striving to assist in the uplift of her sisters. We wish in this instance to consider, not the new woman in the concrete, in the flesh, but the abstract, legal new woman that has been created by the new Civil Code of Japan. In looking through the translation of that document by Mr. Gubbins, we have been deeply impressed with the possibilities which lie before the women of new Japan through the rights and privileges vouchsafed to them under that Code:

It is unnecessary to go much into detail on the somewhat trite subject of woman's position under the old régime in Japan. It should, however, be constantly kept in mind that in the most ancient times women were highly esteemed, and even "used to play an important part on the political stage." In Shinto the central object of adoration is the sun, which is worshiped as a goddess. There have been seated on the imperial throne of Japan eight empresses, one of whom is famous for her martial valor and military exploits. It was when Buddhism became powerful that Hindoo and Chinese conceptions of woman's position molded public opinion and thus eventually changed the

manners, customs, and laws of Japan so as to relegate woman to an abnormally inferior position. As only one striking example out of many possible illustrations of the relative positions of man and woman, we note that, in the case of the death of the husband, the law prescribed mourning garments for thirteen months and abstinence from impurity for fifty days; but, in the case of the death of the wife, mourning garments for three months and abstinence for twenty days were sufficient.

Mr. Gubbins in the introduction to Part II of his translation of the Civil Code, writes as follows :

The legal position of women in Japan before the commencement of modern legislative reform is well illustrated by the fact that offenses came under different categories according to their commission by the wife against the husband, or by the husband against the wife, and by the curious anomaly that, while the husband stood in the first degree of relationship to his wife, the latter stood to him only in the second.¹ The disabilities under which a woman formerly labored shut her out from the exercise of almost all rights. She could not inherit or own property in her own name, she could not become the head of a family, she could not adopt, and she could not be the guardian of her child. The maxim, *mulier est finis familiae*, was as true in Japan as in Rome, though its observance may have been less strict, owing to the greater frequency of adoption.

In no respect has modern progress in Japan made greater strides than in the improvement of the position of women. Though she still labors under certain disabilities, a woman can now become the head of a family and exercise authority as such; she can inherit and own property and manage it herself; she can exercise parental authority; if single, or a widow, she can adopt; she is one of the parties² to adoption effected by her husband, and her consent in addition to that of her husband is necessary to the adoption of her child by another person; she can act as guardian or curator; and she has a voice in family councils.

Moreover, although it is true that for the performance of certain acts (Art. 14) a wife must obtain her husband's permission, and that a wife's acts may be annulled by her husband (Art. 120), yet it is explicitly stated that "a wife who has been permitted to engage in one or more businesses possesses in regard thereto the capacity of an independent person."

¹ Since 1882 they have been upon the same basis.

² These are composed of a large circle of relatives, and exercise autocratic influence in most important questions.

But let us look a little more particularly into the provisions relating to marriage, divorce, etc. The marriageable age is seventeen full years for men and fifteen full years for women. Marriage takes effect when notice of the fact is given to a registrar, by both parties with two witnesses. From this it will appear that the ceremony is a "purely social function, having no connection whatsoever with law beyond the somewhat remote contingency of its being adducible as evidence of a marriage having taken place." And here is where some Japanese Christians make an unfortunate and sometimes serious mistake, in thinking that the ceremony by a minister of the gospel is sufficient and registration is a matter of convenience. *Without registration a marriage is not legal.*

The right of marriage is not free, except to the head of a family.¹ All other persons, whatever their ages, can marry only with the consent of the head of his or her family. Men under thirty and women under twenty-five cannot marry without the consent of the parents; and minors in some cases must obtain the consent of the guardian or even of a family council.

In Art. 790 it is stipulated that "a husband and wife are mutually bound to support one another." A husband manages the property of his wife, unless he is unable to do so, when she manages it herself. "With regard to daily household matters, a wife is regarded as her husband's agent."

There are two ways of effecting divorce: either by arrangement, which is effected in a similar way to marriage—that is, by simply having the registration of marriage canceled—or by judicial divorce, which may be granted on several grounds specified in the Code. But divorce by arrangement cannot be effected by persons under twenty-five years of age without consent of the person or persons by whose consent marriage was effected. And if the persons who effect this kind of divorce fail to determine who is to have the custody of the children, they belong to the father; but "in cases where the father leaves the family owing to divorce, the custody of the children belongs

¹The word "family" is here and hereafter used in a technical sense, peculiar to Japan, of a group of the same surname. In old Japan the family was the social unit.

to the mother," evidently because she remains in the family. In other words, children are chattels of the family.

The grounds on which judicial divorce is granted include bigamy, adultery on the part of the wife, the husband's receiving a criminal sentence for an offense against morality, cruel treatment or grave insult such as to render living together unbearable, desertion with evil intent, cruel treatment or gross insult of or by lineal ascendants.

The new Civil Code indirectly sanctions concubinage by stipulating (in Art. 827) that "an illegitimate child may be recognized by the father or mother" by giving notice to a registrar. Such a child is called *shoshi*, but is not legitimized. It is, however, stipulated (in Art 728) that between a wife and a *shoshi* "the same relationship as that between parent and child is established." That seems clearly enough to mean that a wife must accept a concubine's child as if it were her own, in case the father "recognizes" it. This would appear to be little, if any, advance over the old régime, where "the wife of the father," as she was technically called, frequently had to accept as her own child that of a concubine.

Mr. Gubbins makes the following explanation of *shoshi*:

This term illustrates the transitionary phase through which Japanese law is passing. Japanese dictionaries define *shoshi* as the child of a concubine, and this, so long as concubinage was sanctioned by law, and the question of legitimacy never arose, was the accepted meaning of the term. The law of Japan, which, in the course of its development on western lines, has come to accept the principle of legitimacy, and to admit of the legitimization of children by the subsequent marriage of their parents, now recognizes an intermediate stage between legitimacy and illegitimacy.

Such is the general outline of the legal status of woman according to the new Civil Code. It will undoubtedly be most interesting to watch the gradual evolution of a new woman in Japan as the outcome of this legislation. It remains to be seen how far the social status of woman will be improved. It is not at all likely that her actual position will be immediately advanced in any great degree. It is probable that custom will continue, for a while at least, to wield a mightier influence than the Code; and that, as Mr. Gubbins remarks, "the present transitional con-

dition of Japanese society may favor a rule being honored more in the breach than in the observance." But it will probably not be long before here and there certain women will claim the rights accorded by law and will find a corresponding improvement in their social condition; and thus the general position of the Japanese woman will gradually be advanced.

Since writing the above, we have had the pleasure of reading the revised and illustrated edition of Miss Alice M. Bacon's *Japanese Girls and Women*, and cannot refrain from making some references to it along the line of this article. In that excellent book, which is a sure and safe authority on matters pertaining to the female half of Japan, the author traces very clearly the progress that has been made in the condition of woman, and shows how "better laws, broader education for the women, [and] a change in public opinion" are still necessary. And she affirms that "we can feel pretty sure that, when the people have become used to these [recent] changes [of the new Civil Code], other and more binding laws will be enacted, for the drift of enlightened public opinion seems to be in favor of securing better and more firmly established homes."

It is, moreover, worth our while to make even a lengthy quotation, as follows:

The woman question in Japan is at the present moment a matter of much consideration: There seems to be an uneasy feeling in the minds of even the more conservative men that some change in the status of women is inevitable, if the nation wishes to keep the pace it has set for itself. The Japanese women of the past and of the present are exactly suited to the position accorded them in society, and any attempt to alter them without changing their status only results in making square pegs for round holes. If the pegs hereafter are to be cut square, the holes must be enlarged and squared to fit them. The Japanese woman stands in no need of alteration unless her place in life is somehow enlarged, nor, on the other hand, can she fill a larger place without additional training. The men of new Japan, to whom the opinions and customs of the western world are becoming daily more familiar, while they shrink aghast, in many cases, at the thought that their women may ever become like the forward, self-assertive, half-masculine women of the West, show a growing tendency to dissatisfaction with the smallness and narrowness of the lives of their wives and daughters—a growing belief that better-

educated women would make better homes, and that the ideal home of Europe and America is the product of a more advanced civilization than that of Japan. Reluctantly in many cases, but still almost universally, it is admitted that in the interest of the homes, and for the sake of future generations, something must be done to carry the women forward into a position more in harmony with what the nation is reaching for in other directions. This desire shows itself in individual efforts to improve by more advanced education daughters of exceptional promise, and in general efforts for the improvement of the condition of women.

And Miss Bacon, like all careful observers, is able to appreciate what Christianity has done and is doing for the elevation of Japanese women, and ready to acknowledge that Christian thought and public opinion expedite legislation.

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